

IN THE JUSTICE COURT, COUNTY OF GALLATIN,
IN AND FOR THE STATE OF MONTANA

THE STATE OF MONTANA

Plaintiff
v.

No.

AFFIDAVIT OF PROBABLE CAUSE

Rachel Babovich Eubank

Defendant

STATE OF MONTANA)
 :SS
County of Gallatin)

2012 JAN 4 PM 4:00
CLERK OF DISTRICT COURT
JUSTICE COURT

COMES NOW Officer Van Slyke, and being first duly sworn upon oath, deposes and says:

1. Your affiant is an officer with the Bozeman Police Department, Gallatin County, Montana.
2. On January 4, 2012, your affiant arrested the above-named Defendant and charged the Defendant with the crime(s) of:

Possession of Dangerous Drugs	(Felony)	MCA: 45-9-102
Tampering With or Fabricating Evidence	(Felony)	MCA: 45-7-207
Endangering the Welfare of Children		MCA: 45-5-622
Required Position & Method of Turning at Intersection		MCA: 61-8-333
3. The crime(s) occurred on January 4, 2012.
4. The place of the crime was North 19th and East Valley Center, Bozeman, Montana.
5. The facts relied upon to make the arrest and charge(s) are as follows:

On January 4th 2012, at approximately 0147hrs your affiant was on patrol in a marked patrol vehicle. At listed time your affiant conducted a routine patrol of the North 19th rest area. Your affiant observed a female sitting in a running vehicle bearing MT license 1C12144, talking on her cell phone. Vehicle was a dark colored compact car. Female was later identified as Rachel Babovich Eubank, (DOB: 08/17/1968) and hereafter referred to as the defendant. The defendant made eye contact with your affiant and quickly diverted her eyes. Your affiant parked down the street from the rest area to observe the defendant behavior. As the defendant exited the rest area to proceed northbound, your affiant observed the defendant make an illegal right hand turn by failing to turn into the nearest northbound lane on North 19th Avenue.

Your affiant pulled behind the defendant's vehicle and activated the top lights to conduct a traffic stop. As the defendant drove down the I-90 on ramp, your affiant observed the driver's door open and a bag thrown into the street. Listed vehicle stopped a short distance later. Your affiant contacted the defendant and explained the reason for the stop. Your affiant asked the defendant what she threw out of her vehicle. The defendant stated she didn't throw anything out. Your affiant informed the defendant the driver door was opened and a bag was thrown out of the driver's side. The defendant stated she opened the door to put her seatbelt on. Officer Shermer arrived and located a purple crown royal bag in the spot on the roadway where your affiant observed the vehicle open its door.

Inside the purple crown royal bag were several items containing a white powdery residue along with a used syringe. The defendant was placed in the back of your affiant's patrol car. Inside sleeping in the front passenger seat was the defendant's 5 year old child, hereafter referred to as the victim. The victim was placed in the back of a deputy's vehicle. The defendant granted your affiant consent to search her vehicle. Officer Moen arrived with his K9 partner and conducted a sniff at your affiant's request. Officer Moen informed your affiant the K9 alerted a positive hit on the vehicle. Inside the driver's door a used syringe was located. The defendant was read her rights per *MIRANDA*. The defendant waived her rights and agreed to speak with your affiant. The defendant was deceptive with her answers and at times stated it doesn't matter what I say. The defendant was informed she was under arrest for possession of dangerous drugs (F). The defendant's vehicle was impounded and secured for a search. The defendant was transported to the Gallatin County Detention Center and issued citations for listed offenses. The defendant was held on no bond. Evidence located inside the thrown bag was later tested with a Narcotics Identification Kit (NIK) test kit. The test came back positive for methamphetamine. The suspected methamphetamine and baggie weighed approximately .4 grams.

Your affiant and Detective Veltkamp conducted a probation search of the vehicle. During the search, we located a dirty, used syringe in the driver's door. The syringe was approximately 2 feet from where the 5 year old child was found sleeping.

Affiant is aware that it is unlawful, pursuant to section 45-9-102, MCA, to commit the offense of Criminal Possession of Dangerous Drugs. Methamphetamine is a schedule II controlled substance as defined in section 50-32-224, Montana Code Annotated (MCA).

Affiant is aware that it is unlawful, pursuant to section 45-7-207, MCA, to commit the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, the person: (a) alters, destroys, conceals, or removes any record, document, or thing with purpose to impair its verity or availability in the proceeding or investigation.

Affiant is aware that pursuant to 45-5-622, MCA, a person, whether or not the person is supervising the welfare of a child less than 18 years of age, commits the offense of endangering the welfare of children if the person, in the residence of a child, in a building, structure, conveyance, or outdoor location where a child might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple-unit residential building, knowingly:

- (a) produces or manufactures methamphetamine or attempts to produce or manufacture methamphetamine;
- (b) possesses any material, compound, mixture, or preparation that contains any combination of the items listed in 45-9-107 with intent to manufacture methamphetamine; or
- (c) causes or permits a child to inhale, be exposed to, have contact with, or ingest methamphetamine or be exposed to or have contact with methamphetamine paraphernalia.

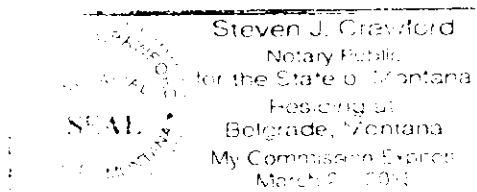
Dated this 4th Day of January, 2012.

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Signature of Affiant

SUBSCRIBED AND SWORN THIS 4th DAY OF JANUARY, 2012.

STEVEN J. CRAWFORD
(Printed Name of Notary Public)



[Signature]
NOTARY PUBLIC FOR MONTANA

Residing at BELGRADE, MT.
My Commission expires 2-21-15

ORDER

Upon reading the foregoing Affidavit:

_____ IT IS HEREBY ORDERED THAT probable cause **is found** to charge the above-named defendant with the following charge(s):

_____ IT IS HEREBY ORDERED THAT probable cause **is not found** to charge the above-named defendant with the following charge(s):

DATED this _ _ day of _ _ _ _ _ , 20__ at _ _ _ _ _ a.m./p.m.

JUSTICE OF THE PEACE